

BILL LOCKYER, Attorney General
of the State of California
JOSE R. GUERRERO, State Bar No. 97276
Supervising Deputy Attorney General
CATHERINE E. SANTILLAN
Senior Legal Analyst
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5579
Facsimile: (415) 703-5480

Legal Representatives for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-1973

TAMI L. DESCHENE
640 W. San Martin Avenue
San Martin CA 95046

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

License no. 18837
Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory
Care Board of California. She brought this action solely in her official capacity and is represented
in this matter by Bill Lockyer, Attorney General of the State of California, by Catherine E.
Santillan, Senior Legal Analyst.

2. Respondent Tami L. Deschene (Respondent) is represented in this
proceeding by attorney Louis C. Castro, whose address is 1004 Willow Street, San Jose,
California 95125.

3. On or about September 3, 1996, the Respiratory Care Board of California
issued Respiratory Care Practitioner License No. 18837 to Tami L. Deschene (Respondent). The
License was in full force and effect at all times relevant to the charges brought in Accusation
No. R-1973 and will expire on September 30, 2007, unless renewed.

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6

7

8
9
0
1

2
3
4
5
6
7
8

9.0

1

2
3
4
5
6

7.8

9. All admissions of fact and conclusions of law contained in this Stipulation are made exclusively for this proceeding and any future proceedings between the Board and respondent and shall not be deemed to be admissions for any purpose in any other administrative, civil or criminal action, forum or proceeding.

CONTINGENCY

10. This stipulation shall be subject to approval by the Respiratory Care Board. Respondent understands and agrees that counsel for Complainant and the staff of the Respiratory Care Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 18837 issued to Respondent Tami L. Deschene (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for two (2) years on the following terms and conditions:

1. ADDITIONAL CONTINUING EDUCATION Respondent shall be required to complete additional respiratory care related Continuing Education beyond that which is required for license renewal. A minimum of fifteen (15) additional hours is required for each year of probation. Respondent shall submit proof to the Board of successful completion of all continuing education requirements.

1 2. RESTRICTION OF PRACTICE Respondent may not be employed or
2 function as a member of a respiratory care management or supervisory staff during the entire
3 length of probation. This includes lead functions.

4 Respondent is prohibited from working in home care unless it is under direct
5 supervision and personal observation.

6 3. SUPERVISOR QUARTERLY REPORTS Supervisor Quarterly Reports
7 of Performance are due for each year of probation and the entire length of probation from each
8 employer, as follows:

9 For the period covering January 1st through March 31st, reports are to be
10 completed and submitted between April 1st and April 7th. For the period covering April 1st
11 through June 30th, reports are to be completed and submitted between July 1st and July 7th. For
12 the period covering July 1st through September 30th, reports are to be completed and submitted
13 between October 1st and October 7th. For the period covering October 1st through December 31st
14 , reports are to be completed and submitted between January 1st and January 7th.

15 Respondent is ultimately responsible for ensuring her employer(s) submits
16 complete and timely reports. Failure to ensure each employer submits complete and timely
17 reports shall constitute a violation of probation.

18 4. OBEY ALL LAWS Respondent shall obey all laws, whether federal,
19 state, or local. Respondent shall also obey all regulations governing the practice of respiratory
20 care in California.

21 Respondent shall notify the Board in writing within 14 days of any incident
22 resulting in her arrest, or charges filed against, or a citation issued against Respondent.

23 5. QUARTERLY REPORTS Respondent shall file quarterly reports of
24 compliance under penalty of perjury, on forms to be provided to the probation monitor assigned
25 by the Board. Omission or falsification in any manner of any information on these reports shall
26 constitute a violation of probation and shall result in the filing of an accusation and/or a petition to
27 revoke probation against Respondent's respiratory care practitioner license.

28
Quarterly report forms will be provided by the Board. Respondent is responsible for contacting

1 the Board to obtain additional forms if needed. Quarterly reports are due for each year of
2 probation and the entire length of probation as follows:

3 For the period covering January 1st through March 31st, reports are to be
4 completed and submitted between April 1st and April 7th. For the period covering April 1st
5 through June 30th, reports are to be completed and submitted between July 1st and July 7th. For
6 the period covering July 1st through September 30th, reports are to be completed and submitted
7 between October 1st and October 7th. For the period covering October 1st. through December
8 31st, reports are to be completed and submitted between January 1st and January 7th.

9 Failure to submit complete and timely reports shall constitute a violation of
10 probation.

11 6. PROBATION MONITORING PROGRAM Respondent shall comply
12 with requirements of the Board appointed probation monitoring program, and shall, upon
13 reasonable request, report to or appear to a local venue as directed.

14 Respondent shall claim all certified mail issued by the Board, respond to all notices
15 of reasonable requests timely, and submit Annual Reports, Identification Update reports or other
16 reports similar in nature, as requested and directed by the Board or its representative.

17 Respondent is encouraged to contact the Board's Probation Program at any time
18 she has a question or concern regarding her terms and conditions of probation.

19 Failure to appear for any scheduled meeting or examination, or cooperate with the
20 requirements of the program, including timely submission of requested information, shall
21 constitute a violation of probation and will result in the filing of an accusation and/or a petition to
22 revoke probation against Respondent's respiratory care practitioner license.

23 7. PROBATION MONITORING COSTS All costs incurred for probation
24 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may be
25 adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and
26 conditions may also cause this amount to be increased.

27 All payments for costs are to be sent directly to the Respiratory Care Board and
28 must be received by the date(s) specified. (Periods of tolling will not toll the probation

1 monitoring costs incurred.)

2 If Respondent is unable to submit costs for any month, she shall be required
3 instead to submit an explanation of why she is unable to submit the costs, and the date(s) she will
4 be able to submit the costs including payment amount(s). Supporting documentation and
5 evidence of why the Respondent is unable to make such payment(s) must accompany this
6 submission.

7 Respondent understands that failure to submit costs timely is a violation of
8 probation and submission of evidence demonstrating financial hardship does not preclude the
9 Board from pursuing further disciplinary action. However, Respondent understands providing
10 evidence and supporting documentation of financial hardship may delay further disciplinary action.

11 In addition to any other disciplinary action taken by the Board, an unrestricted
12 license will not be issued at the end of the probationary period and the respiratory care
13 practitioner license will not be renewed, until such time all probation monitoring costs have been
14 paid.

15 The filing of bankruptcy by Respondent shall not relieve the Respondent of her
16 responsibility to reimburse the Board for costs incurred.

17 8. EMPLOYMENT REQUIREMENT Respondent shall be employed a
18 minimum of 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of her
19 probation period.

20 Respondent may substitute successful completion of a minimum of thirty (30)
21 additional continuing education hours, beyond that which is required for license renewal, for each
22 8 months of employment required. Respondent shall submit proof to the Board of successful
23 completion of all continuing education requirements. Respondent is responsible for paying all
24 costs associated with fulfilling this term and condition of probation. The additional hours of
25 continuing education required in Condition 1, above, shall not be used to satisfy this condition.

26
27 9. NOTICE TO EMPLOYER Respondent shall be required to inform her
28 employer, and each subsequent employer during the probation period, of the discipline imposed
by this decision by providing her supervisor and director and all subsequent supervisors and

1 directors with a copy of the decision and order, and the Statement(s) of Issues or Accusation(s) in
2 this matter prior to the beginning of or returning to employment or within 14 days from each
3 change in a supervisor or director.

4 If Respondent is employed by or through a registry [and is not restricted from
5 working for a registry], Respondent shall make each hospital or establishment to which she is sent
6 aware of the discipline imposed by this decision by providing her direct supervisor and
7 administrator at each hospital or establishment with a copy of this decision, and the Statement(s)
8 of Issues or Accusation(s) in this matter prior to the beginning of employment. This must be
9 done each time there is a change in supervisors or administrators.

10 The employer will then inform the Board, in writing, that she is aware of the
11 discipline, on forms to be provided to the Respondent. Respondent is responsible for contacting
12 the Board to obtain additional forms, if needed. All reports completed by the employer must be
13 submitted from the employer directly to the Board.

14 Respondent shall execute a release authorizing the Board or any of its
15 representatives to review and obtain copies of all employment records and discuss and inquire of
16 the probationary status with any of Respondent's supervisors or directors.

17 10. CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall
18 notify the Board, and appointed probation monitor, in writing, of any and all changes of
19 employment, location, and address within 14 days of such change. This includes, but is not
20 limited to, applying for employment, termination or resignation from employment, change in
21 employment status, change in supervisors, administrators or directors.

22 Respondent shall also notify her probation monitor AND the Board IN WRITING
23 of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for
24 mailing purposes, however the Respondent must also provide her physical residence address as
25 well.

26
27 11. COST RECOVERY Respondent shall pay to the Board a sum not to
28 exceed the costs of the investigation and prosecution of this case. That sum shall be \$4,000.00
and shall be paid in full directly to the Board, in equal quarterly payments, within sixteen (16)

months from the effective date of this decision. Cost recovery will not be tolled.

If Respondent is unable to submit costs timely, she shall be required instead to submit an explanation of why she is unable to submit these costs in part or in entirety, and the date(s) she will be able to submit the costs including payment amount(s). Supporting documentation and evidence of why the Respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation, and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, Respondent understands that providing evidence and supporting documentation of financial hardship may delay further disciplinary action.

Consideration to financial hardship will not be given should Respondent violate this term and condition, unless an unexpected AND unavoidable hardship is established from the date of this order to the date payment(s) is due.

The filing of bankruptcy by the Respondent shall not relieve the Respondent of her responsibility to reimburse the Board for these costs.

12. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE

Periods of residency or practice outside California, whether the periods of residency or practice are temporary or permanent, will toll the probation period, but will not toll the cost recovery requirement, nor the probation monitoring costs incurred. Travel out of California for more than 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the Board, in writing, within 14 days, upon her return to California and prior to the commencement of any employment where representation as a respiratory care practitioner is/was provided.

13. VALID LICENSE STATUS Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees and meet

Continuing

Education requirements prior to her license expiration date shall constitute a violation of probation.

14. VIOLATION OF PROBATION If Respondent violates any term of the probation in any respect, the Board, after giving Respondent notice and the opportunity to be

1 heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to
2 revoke probation is filed against Respondent during probation, the Board shall have continuing
3 jurisdiction and the period of probation shall be extended until the matter is final. No petition for
4 modification of penalty shall be considered while there is an accusation or petition to revoke
5 probation or other penalty pending against Respondent.

6 15. COMPLETION OF PROBATION Upon successful completion of
7 probation, Respondent's license shall be fully restored.

8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and
10 have fully discussed it with my attorney, Louis C. Castro. I understand the stipulation and the
11 effect it will have on my Respiratory Care Practitioner License. I enter into this Stipulated
12 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound
13 by the Decision and Order of the Respiratory Care Board.

14 DATED: November 29, 2005.

15 Original signed by:
16 TAMI L. DESCHENE
Respondent

17 I have read and fully discussed with Respondent Tami L. Deschene the terms and
18 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
19 I approve its form and content.

20 DATED: November 29, 2005.

21 Original signed by:
22 LOUIS C. CASTRO
Attorney for Respondent

23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

DATED: November 29, 2005.

BILL LOCKYER, Attorney General
of the State of California

Original signed by:
CATHERINE E. SANTILLAN
Senior Legal Analyst for Complainant

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Case No. R-1973

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

15
16
17
18
19
20
21
22
23
24
25
26
27
28

17
18
19
20
21
22
23
24
25
26
27
28